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## Appeal Decision

Site visit made on 4 January 2022

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 January 2022**

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**Appeal Ref: APP/D1265/W/21/3279161**

**Former ATS Euromaster Site, New Road, Shaftesbury SP7 8QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Westcoast (Bristol) Limited against the decision of Dorset Council.
  - The application Ref 2/2019/0680/FUL, dated 20 March 2019, was refused by notice dated 27 April 2021.
  - The development proposed is described as construction of 18 dwellings, access, car parking and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for construction of 18 dwellings, access, car parking and landscaping at Former ATS Euromaster Site, New Road, Shaftesbury SP7 8QH in accordance with the terms of the application, 2/2019/0680/FUL, dated 20 March 2019, and subject to the conditions set out in the schedule at the end of this decision.

### Main Issues

2. The main issues are:
  - the effect of the development on designated heritage assets, and specifically whether the development would: preserve or enhance the character or appearance of Shaftesbury Conservation Area (the Conservation Area); conserve the setting of the Conservation Area; and preserve the settings of listed buildings; and
  - whether the failure to secure contributions towards open space/play facilities and education is acceptable.

### Reasons

3. Part of the southern side of the site falls within the boundary of the Conservation Area. The majority however lies outside. Only a small portion of the proposed development would therefore occur within the boundary, the rest would occupy the immediate setting.
4. Insofar as it is relevant to this appeal the significance of the Conservation Area resides in the historic layout and topography of the settlement, and the collection and interrelationship of historic buildings and spaces it contains.
5. The appeal site is prominently located on the northern fringe of the town centre, at a point where ground levels begin to fall toward the edge of the

plateau on which the settlement was historically built. The distance from the site to the historic centre of the settlement is short, and historic buildings between are varied in terms of style, height, form, layout, scale and massing. The site itself is currently vacant, having previously been occupied by a vehicle servicing centre. In both its current and previous states, it detracts and detracted from the character, appearance and setting of the Conservation Area. Scope for enhancement therefore clearly exists.

6. An extant planning permission approved in 2017 (the approved scheme) permits development of the site for sheltered housing. The approved scheme would entail the construction of a 2-3 storey building across the majority of the site, albeit generally pulled back from the main street frontage. Its considerable overall massing would be broken up by detailing of mixed traditional and contemporary character. From certain perspectives this would superficially imply the presence of more than one building. I have been provided with no indication of whether it is likely that the approved scheme would be implemented were this appeal to be dismissed. The relatively recent date of the approved scheme nonetheless establishes it as a benchmark against which to measure the acceptability of the appeal scheme.
7. The appeal scheme would see the site occupied by 2 buildings: Block A on the main street frontage, and Block B to the rear. At appeal the Council has confirmed that its concerns relate to Block A.
8. Block A would be broken up into 3 component parts, which would appear as distinct, and for the most part traditional forms front to back. The frontage design would prioritise use of locally occurring materials and details, and the ridgeline would be stepped, reflecting the fall in ground levels. The frontage would be set reasonably close to the pavement, thus providing a good level of enclosure to the street, and some sense of continuity with the pattern towards the south. A direct and meaningful relationship would therefore exist between the design, the proposed accommodation and the context. In each regard the proposed development would be more successful than the approved scheme.
9. Differences would exist between the composition and styling of Block A and historic buildings within the town centre. Insofar as an objection has however been chiefly raised in relation to certain materials and finishes, the specification could be refined by condition. Insofar as reference has also been made to the crown roof and dormers, concerns more generally relate to scale. Indeed, neither feature is unknown within the town, nor absent from the approved scheme.
10. The appeal scheme would indeed entail the introduction of more substantial built forms to the site than are either known to have previously existed upon, or which currently exist immediately adjacent to it. So too would the approved scheme, if not more so. In this regard the site lies sufficiently close to the historic centre of the settlement, and the composition of the streetscene between is sufficiently varied that, given my findings above, Block A would be absorbed without adverse effect. Moreover, it would do so more successfully than the approved scheme. As such I find that the character and appearance of the Conservation Area would be preserved if not enhanced, and that the setting of the Conservation Area would additionally be conserved.
11. The decision notice additionally references harm to the settings of 'several' listed buildings, however these are not identified. Two have subsequently been

suggested at appeal: The King's Arms opposite, and Avishays which neighbours the site towards the south. Both are listed at Grade II.

12. Insofar as it is relevant to this appeal the special interest and significance of the King's Arms resides in its C18th – early C19th date, the vernacular character of its core, and its distinctive construction in local stone. Avisahys, which appears of earlier origin, is similarly constructed in local stone, though in more formal style and at a more prominent scale. As components of the historic streetscene each draws some significance from their general relationship with other historic buildings and spaces within it. In this regard differences between the two buildings underline broader variations in the character of the streetscene between the site and the historic centre of the settlement.
13. The site makes no obvious contribution to the significance of either listed building, and instead again detracts from the visual and spatial quality of their settings. In this regard the specific effect of the proposed development, and that of Block A more specifically, would be in relation to the contribution that the streetscene makes to the significance of both listed buildings. I have already found above that Block A would be compatible with the historic streetscene and might even deliver enhancement. Insofar as it is additionally necessary in this context to consider Block B, both its design and its positioning on the rear half of the site behind Block A mean that its physical and visual effect would be at the very least neutral. It can only follow that the development would preserve the settings of both listed buildings.
14. For the reasons set out above I conclude that the development would have an acceptable effect on designated heritage assets. The development would therefore comply with Policy 5 of the North Dorset Local Plan Part 1 2016 (the LP), which supports this objective; Policy 24 of the LP, which seeks to secure development that improves the character and quality of an area; and Policy 7 of the LP, which sets out similar design objectives in relation to housing. The development would in turn also satisfy Policies SFDH1, SFDH3, SFDH6 and SFDH7 of the Shaftesbury Neighbourhood Plan 2019-2031 (the NP) which together cover more detailed aspects of design with the same context. The Council also cited Policies 1 and 2 of the LP and Policies SFDH2 and SFDH4 of the NP in the decision notice. However, these simply reiterate the presumption in favour of sustainable development, set out the core spatial strategy, and relate to matters including accessibility, inclusion and planting, with which there would be no identified conflict.

### *Contributions*

15. The Council's approach towards affordable housing and social infrastructure is set out within Policies 8 and 14 of the LP. In assessing the application, the Council found that the scheme would not be viable if a contribution towards affordable housing was provided, but that financial contributions towards education and outdoor space/play facilities could be sought.
16. Notwithstanding reference to the matter being made within the Committee Report, the application was not refused on the basis that no such contributions had been secured. Nor was any reference to contributions made within the Council's appeal statement. At a very late stage in the appeal process the Council has nonetheless indicated that a failure to secure contributions through a planning obligation should be considered as an additional reason for refusal.

17. The development would support a modest increase in the local population, including around 8 children across the age spectrum. Children clearly require school places and along with other future occupants could make use of outdoor space/play facilities. These are therefore areas within which contributions are commonly sought.
18. In relation to outdoor space/play facilities, the amount sought would be 71.5% of that apparently required, albeit no final figure is provided, or explanation of why a reduced sum would be acceptable. No indication has otherwise been given of how the requested sum was calculated, where and how it would be spent, and specifically why it is necessary. The need for the contribution has not therefore been clearly demonstrated. Even had the appellant sought to secure its payment through a planning obligation, I could not therefore have found that it passed the tests set out in Section 122 of the Community Infrastructure Levy Regulations 2010 (as amended) or paragraph 57 of the National Planning Policy Framework (the Framework) (collectively 'the tests').
19. In relation to education, the requested sum would again be reduced by 71.5%. In common with the above, no final figure is provided, or explanation of why a reduced sum would be acceptable. Insofar as the matter is only covered in any detail within consultee comments, these reference a methodology but do not set this out, and further suggest that the formula will change. It is therefore unclear whether the figures given remain current. No indication of whether existing or planned/committed school capacity is currently sufficient to accommodate the proposed development is provided, and details of how the requested monies would be spent is also somewhat vague. I am mindful of the weight that the Framework places on a sufficient choice of school places being available to meet the needs of existing and new communities. I also note that some brief reference is made to school provision in Shaftesbury within the supporting text of Policy 14. In this case however the evidence before me is insufficient to clearly demonstrate a need for the contribution as specified. Again therefore, had the appellant sought to secure its payment through a planning obligation, I could not have found that it passed the tests.
20. For the above reasons I conclude that the Council has failed to demonstrate that it is necessary for the development to make contributions towards open space/play facilities and education. The failure to secure such contributions is therefore acceptable, and not contrary to Policy 14 of the LP as set out above.

### **Other Matters**

21. A range of additional concerns not shared by the Council have been raised by interested parties. These include road safety, waste management and neighbour amenity. As the development would provide a suitable access and pavement around the site, would be capable of servicing, and was modified to address impacts on neighbours, I see no reason to take a different view.

### **Conditions**

22. Conditions (1) and (2) set out the time period for commencement of the development and identify the approved plans for sake of certainty.
23. Condition (3) requires the footprint of Block A to be as shown on the approved site plan. This is because there is a minor discrepancy between this and plan P9117/201 Rev B which shows the internal layout, and with plan P9117/202

Rev B which shows the side elevations. Notwithstanding this discrepancy, each should otherwise be capable of implementation. The condition is required in the interests of certainty.

24. Condition (4) requires the submission of a Written Scheme of Investigation outlining archaeological work. This condition is required given that preliminary investigation of the site indicated the high possibility of further features of archaeological interest elsewhere on the site.
25. Condition (5) sets out requirements in relation to contamination on site given its past use, and is required in the interests of public health and safety.
26. Condition (6) is imposed to secure implementation of the Biodiversity Plan for the development, in the interests of biodiversity.
27. Condition (7) requires the development to be implemented in accordance with the submitted drainage strategy, which the Council has confirmed is feasible and deliverable. This is in place of a more onerous condition requiring details otherwise set out within the strategy. The condition is required in order to ensure the appropriate drainage of the site.
28. Condition (8) draws together several proposed conditions relating to materials and design details. It differentiates requirements in relation to Blocks A and B both reflecting the differing relationships each would have with the historic streetscene. It is required in order to ensure a satisfactory relationship of the development with its setting, including designated heritage assets.
29. Condition (9) again draws together a number of suggested conditions in relation to the landscaping, whilst also satisfying highways concerns in relation to surfacing. It is imposed in order to ensure a satisfactory relationship of the development with its setting, in the interests of the amenity of future occupants, and of highway safety.
30. Condition (10) secures the provision of car/cycle parking and turning space. It is necessary in order to ensure that the development meets the parking demand that it will generate, and in order to encourage sustainable travel.
31. Conditions (11) and (12) each relate to reinstatement/improvement of the pavement around the site. These are necessary in order to ensure that future occupants and their visitors can safely access the development on foot.
32. Condition (13) restricts the construction of fences, walls or gates. I have refined the condition to apply only to the frontage of Block A. This provides a basis to control the incremental modification of frontage space, thus helping ensure that a satisfactory relationship continues to exist between it and the broader streetscene.
33. I have not imposed a condition requiring the submission of finished floor levels, as levels are shown on the site plan.

## **Conclusion**

34. For the reasons set out above I conclude that the appeal should be allowed.

*Benjamin Webb*

INSPECTOR



## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless modified in compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: P9117/200 Rev B; P9117/201 Rev B; P9117/202 Rev B; P9117/203 Rev B; P9117/204 Rev B; P9117/205 Rev B; P9117/206 Rev B; P9117/207 Rev B; 5237-202.
- 3) The footprint of Block A within the development hereby permitted shall be as shown on plan P9117/200 Rev B.
- 4) No form of excavation shall be undertaken on site in relation to the development hereby permitted, until a Written Scheme of Investigation setting out a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved scheme.
- 5) Any contamination not previously identified which is found whilst implementing the development hereby permitted must be immediately reported in writing to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall then be carried out before the development, or the relevant part of it, is resumed or continued.
- 6) The development hereby permitted shall be implemented in accordance with the Biodiversity Plan approved 11 March 2021, with all net gain measures completed prior to the first occupation of the approved dwellings.
- 7) The development hereby permitted shall be implemented and thereafter managed in accordance with the Drainage Strategy for Former ATS Euromaster New Road Shaftesbury, with all drainage works completed prior to the first occupation of the approved dwellings.
- 8) Notwithstanding the details shown on the approved plans, construction of Blocks A and B as hereby permitted shall not take place above slab level until:  
in relation to Blocks A and B:
  - (a) details of all materials and finishes to be used externally, including sample panels measuring 1 metre x 2 metres; and  
in relation to Block A only:
  - (b) design and construction details including drawings at a scale of not less than 1:5, of doors, windows, canopies, eaves, verges, dormers, chimneys, plinths, sills, arches and lintels; and
  - (c) details of the location of all flues, vents and meter boxes;have been submitted to/constructed and approved in writing by the Local Planning Authority. Construction of Blocks A and B shall then be carried out in accordance with the approved details, as applicable, and the sample panels shall remain on site for the duration of construction works.

- 9) Construction of Blocks A and B as hereby permitted shall not take place above slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

- (a) planting;
- (b) all hard surfacing materials;
- (c) all boundary treatments; and
- (d) a timetable for implementation.

The approved scheme shall then be implemented in accordance with the approved timetable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 10) Prior to the first occupation of the dwellings hereby permitted the parking and turning space, including cycle parking facilities shown on the approved plans shall be provided and made available for parking and turning. They shall thereafter be retained and kept available for these purposes at all times.
- 11) Prior to the first occupation of the dwellings hereby permitted the existing highway vehicular crossing in New Road shall be expunged and reinstated to provide a 2 metre wide footway, to a specification that has first been submitted to and approved in writing by the Local Planning Authority
- 12) Prior to the first occupation of the dwellings hereby permitted, the widened footway along the northern side of Kings Hill shown on the approved plans shall be constructed in accordance with a specification that has first been submitted to and approved in writing by the Local Planning Authority.
- 13) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling that forms part of Block A, forward of any wall of that dwelling which fronts onto a road.